

REMARKS

A. Status of the Claims

Claims 1, 2, 12, 14 and 25 were examined. Claims 1 and 15 have been amended for the reasons set forth below. Claim 26 has been added.

B. Claims 1 and 2 Are Patentable over Shank

Claim 1 has been amended to distinguish Shank, and for no other reason. It now recites in both the preamble and the body of the claim that the crossed strands are of a device suitable for implantation into a living being. The textile product formed using Shank's techniques is not (nor does it suggest) a device suitable for implantation into a living being. Accordingly, the amendment to claim 1 overcomes the rejection, and claims 1 and 2 are patentable over Shank.

C. Claim 25 Is Patentable over Hyodoh

Claim 25 has been amended to distinguish Hyodoh, and for no other reason. Claim 25 now recites that the claimed non-radio opaque securing material segments are joined together using one or more of tying, gluing, heating and compressing. (*See* page 9, line 3 to page 10, line 6 of the present application for example support.) The "joined" segments from Hyodoh on which the Office relies (see Appendix A to the final Office Action) are integrally formed (they are part of the same wire). They are not joined using one or more of tying, gluing, heating and compressing. Accordingly, amended claim 25 is patentable over Hyodoh.

D. New Claim 26 Is Patentable over Hyodoh

Claim 26 is directed to a device suitable for implantation into a living being, and includes a body having at least two strands crossed to form an intersection, the intersection defining at least two sections. The claim also recites that each of the at least two strands have a free end that is separated from the intersection by a strand segment but no other intersection (*see* FIG. 9 for

example support). The at least two crossed strands from Hyodoh on which the Office relies to reject examined claim 25 (see Appendix A to the final Office Action) each lacks a free end that is separated from the intersection at issue by a strand segment but no other intersection. Accordingly, amended claim 26 is patentable over Hyodoh.

E. Species Election Comments

Applicant initially elected radio opaque securing material from subspecies B of the May 28, 2004 Election/Restrictions requirement. Each of the independent claims has since been amended to recite that the securing material is **non-radio opaque**. This should have the effect of limiting the Office's search for the relevant art with respect to securing materials, despite Applicant's initial election of radio opaque materials. If the Office disagrees or has any issue with the non-radio opaque amendment, please advise.

F. Petition for Extension of Time in This and Future Responses

Applicants petition for a 3-month extension of time in which to respond to the June 29, 2005 Office Action. The Commissioner is authorized to deduct the 3-month extension process fee, and any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, from Fulbright & Jaworski Deposit Account No.: 50-1212/IDEV:020US if no check covering the appropriate amount is included.

The Office is further authorized to treat any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) to be timely as incorporating a petition for an extension of time for the appropriate length of time, and to deduct all required fees under 37 C.F.R. §§ 1.16 to 1.21 relating to any such replies of other relevant papers from Fulbright & Jaworski Deposit Account No.: 50-1212/IDEV:020US.

G. Conclusion

Claims 1, 2, 12, 14, 25 and 26 are in condition for allowance. Should Examiner Erez have any questions, comments, or suggestions relating to this application, he is invited to contact Applicant's attorney at (512) 536-3031.

Respectfully submitted,



Mark T. Garrett
Reg. No. 44,699
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3031
Date: December 29, 2005